S.B.CIVIL SECOND APPEAL NO.408/2005

Santosh Chand vs. Late Mukan Chand.

DATE OF JUDGMENT ::: 8.12.2005

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. SK Gupta, for the appellant.
Mr. Arvind Samdaria, for the respondent.

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Heard learned counsel for the parties.

The suit of the plaintiff though filed on various grounds, but was decreed on the ground that the defendant has acquired suitable accommodation.

Learned counsel for the appellant submits that it is true that a house has been purchased by the appellant in the name of his wife but in that house, the appellant's brother-in-law and other members are living, therefore, that accommodation is not a suitable residential accommodation. In view of the above, according to the learned counsel for the appellant, the two courts below committed serious illegality in deciding the issue no.5 against the appellant.

I have considered the facts of the case and perused the reasons given by the two courts below.

It is not in dispute that the appellant purchased the house though in the name of his wife and if the appellant's contention raised above is true, then it falsifies that the appellant cannot live in that house because of paucity of accommodation. If he can accommodate his brother-in-law in that house, he cannot say that he cannot live in that house with his wife.

No substantial question of law is involved in this appeal. Accordingly, this appeal deserves to be dismissed.

At this stage, learned counsel for the appellant prayed that some time may be granted to the appellant for vacating the suit premises.

Learned counsel for the respondent/landlord vehemently submitted that since the appellant had alternate accommodation, therefore, there is no need for grant of time to the appellant.

Since in the peculiar facts of the case of the appellant having his own house, there appears to be no reason for grant of any further time for vacating the suit premises.

In view of the above, this appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya